

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/920,481 Confirmation No. 5566
Applicant : Carey
Title : E-MAIL BASED INQUIRY-
RESPONSE AUTOMATION
Filed : 08/01/2001
TC/A.U. : 2123
Examiner : Osborne
Docket No. : U000-P02020US
Customer No. : 33356

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

The following Reply Brief is submitted in response to the Examiner's Answer dated December 26, 2006 for consideration by the Board of Appeals and Interferences pursuant to 37 C.F.R. § 41.41.

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Response to Examiner's Answer dated 12/26/2006

STATUS OF CLAIMS

Claims 1-30 and 41 are pending, have been rejected and are now being appealed. Claims 31-40 have been canceled.

Claims 1-30, 40 and 41 were pending and rejected in the Final Office Action dated June 19, 2006. Claim 12 was amended on July 25, 2006. In the Advisory Action of August 10, 2006, the amendment of claim 12 was entered for purpose of this appeal. Claim 40 was canceled in an amendment pursuant to 37 C.F.R. § 41.33(b)(1) on September 27, 2006.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-2, 4-6, 13-14, 22-23, 25-27 and 41 were rejected under 35 U.S.C. § 103(a) in view of Gifford (USP 5,724,424) and further in view of Talati et al. (USP 5,903,878).

Claims 3, 15 and 25 were rejected under 35 U.S.C. § 103(a) in view of Gifford (USP 5,724,424), further in view of Talati et al. (USP 5,903,878) and further in view of Applicant Admitted Prior Art at the Specification paragraph [0004].

Claims 7, 19 and 28 were rejected under 35 U.S.C. § 103(a) in view of Gifford (USP 5,724,424), further in view of Talati et al. (USP 5,903,878) and further in view of Joseph (US Pat. Publ. 2003/0028448).

Claims 8-12, 20-21 and 29-30 were rejected under 35 U.S.C. § 103(a) in view of Gifford (USP 5,724,424), further in view of Talati et al. (USP 5,903,878) and further in view of Schuster et al. (USP 6,351,524).

ARGUMENT

Claims 1, 13, 22, 41 and all claims depending therefrom are patentable over Gifford in view of Talati:

This appeal resolves into one simple issue: is an e-mail message from a user the same as, or an obvious variant of, an HTTP request message. It is respectfully submitted that the answer is equally simple. These messages are different in form, origin, and purpose. Thus the claims are patentable over the cited art.

In the final Office action of 06/19/2006 and the Response of 12/26/2006, the Examiner asserted that the claim limitation "receiving a first message via e-mail from a user of a given client device at a remote location, whereby an inquiry-response transaction is initiated" is taught at Gifford, 7:9-10 and Fig. 6, items 19-20. However, Gifford's process requires that a buyer activate a link resulting in an HTTP request for a specific document with a specified URL (see Gifford, 5:50-53). Gifford expressly states, "when the user activates link 5, an HTTP request 25 is sent to the merchant computer requesting the document" (see Gifford, 5:57-59).

The Examiner has based the rejection of the independent claims on the assertion that an e-mail message and an HTTP request are essentially the same thing. The Examiner specifically stated in the final Office action and the Response that "the term e-mail while common in usage does not have a particularly specific ordinary definition" and "the Examiner does not find reason to hold the term 'e-mail' as recited in claim 1 and the HTTP request patentably distinct." In support of this assertion, the Examiner provided one example of a definition for "e-mail" based on the Oxford Online dictionary as "*noun* the sending of messages by electronic means from one computer user to one or more recipients via a network; *verb* mail or send using email."

While the term “e-mail” may not have a single universal specific definition, it is respectfully submitted that an e-mail message and an HTTP request message are distinct and different to persons of average skill in the art, however these persons are defined.

To an information technology (IT) professional responsible for the development or operation of a networked information retrieval or sales system, an HTTP request message is a specific message format that forms part of the HTTP protocol defined by RFC 2616. A HTTP request message is comprised of exactly a request line, optional header lines, an empty line, and an optional message body. The request line must begin with one of eight allowed methods (GET, PUT, etc.) and must include The HTTP version number. The request line may commonly also include a file name and directory or a uniform resource locator (URL) designating a Web page. The header lines, if present, may contain one or more of the nineteen different header fields allowed by the HTTP protocol.

An HTTP request message is not composed by a computer user, but is composed by the browser client software installed in the user's computer in response to a user action such as clicking a button or link presented on the computer's display device. Thus, using the definition of “e-mail” provided by the Examiner, an HTTP request message is arguably not an e-mail message since the HTTP request message is not sent from the *computer user*.

An IT professional will understand an e-mail message to be a message sent in one of the well-known e-mail protocols such as Simple Mail Transfer Protocol (SMTP) or Post Office Protocol (POP). Other messaging protocols are available for wireless e-mail appliances. An e-mail message and a HTTP request message are created in different ways, transmitted using different protocols, and processed by different software applications which commonly run on different servers connected to the same network. An IT professional will certainly consider an e-mail message and an HTTP request message to be significantly different forms of electronic communication.

At the other end of the technological spectrum, the typical computer user may not be able to provided a detailed technical description of “e-mail” or “HTTP request”, but will certain recognize

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that sending e-mail and web browsing are distinctly different ways to interact with a network via their computer.

It is respectfully submitted that "e-mail" and "HTTP message" are patentably distinct means of electronic communication and that the claim limitation "receiving a first message via e-mail from a user of a given client device at a remote location, whereby an inquiry-response transaction is initiated" is not taught or suggested by Gifford. Thus the rejection under 35 U.S.C. 103 should be overturned.

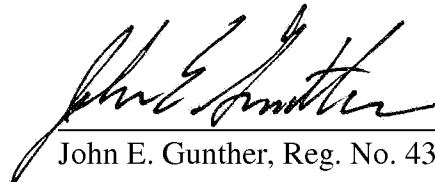
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CONCLUSION AND RELIEF

In view of the foregoing, it is believed that all claims patentably define the subject invention over the prior art of record and are in condition for allowance. The undersigned respectfully requests that the Board overturn the rejection of claims 1-30 and 41 and hold claims 1-30 and 41 allowable.

Respectfully submitted,

Date: January 16, 2007



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